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10/023,438	12/18/2001	Niko Eiden	944-003.123	2313

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EXAMINER
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NGUYEN, DAVID Q

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 04/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/023,438

**Applicant(s)**

EIDEN ET AL.

**Examiner**

David Q Nguyen

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,8,9,12,13 and 15 is/are rejected.
- 7) ☒ Claim(s) 2,5,7,10-11,14 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feldis, III (US 2003/0007078 A1) in view of Matsumoto (US 2002/0078157 A1).

Regarding claim 1, Feldis III discloses a wireless terminal for communicating pictures via a wireless communication system (see par. 0028), the wireless terminal comprising: a picture manager (CPU 206; fig. 2) responsive to signals indicating pictures for displaying the pictures (see fig. 2 and par. 0028 and 0038). Feldis fails to disclose each of picture is either editable or non-editable as indicated by a predetermined tag embedded in the picture; examining each of the pictures to determine whether each of the pictures including the predetermined tag so as to be either editable; allowing a user to alter the content of at least a portion of the picture, or non-editable thus protecting the picture from being edited by the user, depending on whether a tag in a picture is pre-agreed to signify that the picture is editable or is non-editable, and for providing signals indicating edited and non-edited pictures; a picture source, for providing the signals indicating pictures along with optional associated text, responsive to the signals indicating the

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edited and non-edited pictures. However, Matsumoto discloses each of picture is either editable or non-editable as indicated by a predetermined tag embedded in the picture (see fig. 2 and pars 0026-0027); examining each of the pictures to determine whether each of the pictures including the predetermined tag so as to be either editable (see fig. 2 and pars. 0027-0028); allowing a user to alter the content of at least a portion of the picture, or non-editable thus protecting the picture from being edited by the user, depending on whether a tag in a picture is pre-agreed to signify that the picture is editable or is non-editable (see fig. 2 and its description), and for providing signals indicating edited and non-edited pictures (see fig. 2 and its description); a picture source, for providing the signals indicating pictures along with optional associated text, responsive to the signals indicating the edited and non-edited pictures (see fig. 2 and its description).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above teaching of Matsumoto to Feldis III in order to protect a picture advertising a product or service and prevent from editing the picture by users.

Regarding claim 2, the wireless terminal of Feldis III in view of Matsumoto also discloses not to enable editing a picture if the picture includes the predetermined tag (see fig. 2 and pars. 0025-0028 and 0031-0032 of Matsumoto).

Regarding claims 3-4, the wireless terminal of Feldis III in view of Matsumoto also discloses wherein the picture manager will enable editing a picture only if the picture includes the predetermined tag (see page 3, paragraphs 0032-0039; paragraphs 0038-0039 of Feldis III); wherein the predetermined tag is visible to a user of the wireless terminal only if the wireless terminal is placed by the user into a mode of operation allowing editing of an editable picture (see page 3, paragraphs 0032-0039; paragraphs 0038-0039 of Feldis III).

Regarding claims 6-10, Feldis III in view of Matsumoto also discloses a system comprising a wireless terminal for communicating pictures via a wireless communication system (see fig. 1), the wireless terminal as claimed in claims 1-4 (see explanation in claims 1-4); a base station transceiver (see fig. 1, ISP 1) for providing communication between the wireless terminal and other communication devices (see fig. 1).

Regarding claim 11, Feldis III in view of Matsumoto also discloses equipment providing pictures for downloading, for providing the signals indicating the pictures (see fig. 2 and pars. 0026-0031 of Matsumoto).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Matsumoto (US 2002/0078157 A1).

Regarding claim 12, Matsumoto discloses a method for use by a wireless terminal used in communicating pictures via a wireless communication system (see fig. 1), the method comprising: a) an examination step, responsive to a picture, for examining the picture to determine whether the picture includes a predetermined tag (see fig. 2 and par. 0027), and for

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providing an indication of whether or not the picture includes the predetermined tag (see fig. 2 and par. 0027-0028); a mode guard step, for enabling editing of the picture thus allowing a user to alert the content of at least a portion of the picture, depending on the indication of whether or not the picture includes the predetermined tag (see fig. 2 and pars. 0025-0028 and 0031-0032).

Regarding claim 13, the method of Matsumoto also discloses wherein in the mode guard step a user is allowed to edit the picture only if the picture includes the predetermined tag; wherein in the mode guard step (see fig. 2 and pars. 0025-0028 and 0031-0032).

Regarding claim 14, the method of Matsumoto also discloses wherein the mode guard step, a user is not allowed to edit the picture if the picture includes the predetermined tag (see fig. 2 and pars. 0025-0028 and 0031-0032).

Regarding claim 15, the method of Matsumoto also discloses a step of displaying the predetermined tag so that it is visible to a user only if the user places the wireless terminal into a mode of operation allowing editing of an editable picture (see fig. 2).

#### ***Allowable Subject Matter***

4. Claim 5 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 5, the wireless terminal of Feldis III in view of Matsumoto discloses all limitations of claim 1 except for wherein the picture manager automatically saves downloaded pictures including the predetermined tag in a different location in the memory device from where

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the picture manager saves downloaded pictures not including the predetermined tag, as specified in claim 5.

Regarding claim 16, the method of Matsumoto discloses all limitations of claim 12 except for a downloaded picture having the predetermined tag is saved in a different location in a memory device from where a downloaded picture not including the predetermined tag is save, as claimed in claim 16.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hamynen et al. (US 2003/0069004) discloses system and protocol for providing pictures in wireless communication message.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q Nguyen whose telephone number is 703-605-4254. The examiner can normally be reached on 8:30AM-5:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Moise Emmanuel can be reached on 703-306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DN

David Nguyen

  
EMMANUELLE L. MOORE  
PRIMARY EXAMINER